

KELLOGG, HUBER, HANSEN, TODD, EVANS & FIGEL, P.L.L.C.

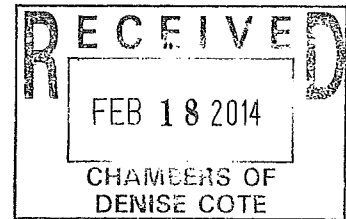
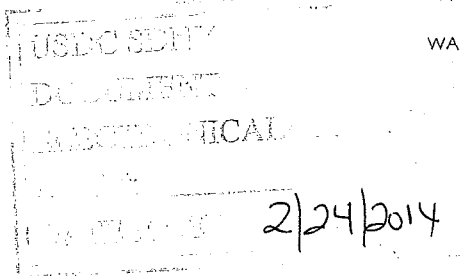
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February 18, 2014

Via ECF

The Honorable Denise L. Cote
United States District Court for the Southern District of New York
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Re: *NCUA v. Morgan Stanley & Co.*, No. 13-cv-6705
NCUA v. Wachovia Capital Markets LLC, No. 13-cv-6719
NCUA v. Goldman, Sachs & Co., No. 13-cv-6721
NCUA v. RBS Securities, LLC, No. 13-cv-6726
NCUA v. Barclays Capital Inc., No. 13-cv-6727
NCUA v. UBS Securities, LLC, No. 13-cv-6731
NCUA v. Credit Suisse Securities (USA) LLC, No. 13-cv-6736

Dear Judge Cote:

We write on behalf of the National Credit Union Administration Board, as liquidating agent for Southwest and Members United Corporate Credit Unions ("NCUA"), in the above captioned actions. NCUA respectfully requests permission to serve Rule 45 subpoenas on certain servicers, originators, sponsors, and depositors. NCUA raised this issue with defendants in the above-captioned actions on February 11, 2014, and asked for any objections by February 12, 2014. No defendant responded or raised an objection to that request.

These subpoenas are necessary to obtain, among other things, loan files and underwriting guidelines pertaining to the transactions at issue. As this Court recognized at the November 14, 2013 status conference, obtaining such documents is often a lengthy process and can present a significant "bottleneck[]" in discovery in these actions. Tr. at 13-14.

NCUA respectfully submits that such third-party discovery should proceed now. In the November 21, 2013 Scheduling Order, this Court stayed discovery in the *NCUA v. Goldman, Sachs & Co.*, No. 13-cv-6721 action pending Goldman Sachs's motion to compel arbitration.

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Dkt. No. 38, at 4.¹ In the remaining actions, this Court stayed discovery pending a decision on the motion to dismiss in the lead action, *NCUA v. Morgan Stanley & Co., Inc.*, No. 13-cv-6705, with the exception of loan tape discovery and the exchange of certain information necessary for the parties to negotiate ESI search terms, custodians, and the repositories to be searched. *Id.* Both the motion to compel in *Goldman Sachs* and the motion to dismiss in *Morgan Stanley* have since been resolved.²

In light of these developments, NCUA respectfully requests permission to serve Rule 45 subpoenas.

Respectfully submitted,

*The defendants having
advised the Court that they
take no position on their
application, the application
is approved.*
Denise Cote
2/21/14

/s/ Andrew C. Shen

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¹ All references to docket numbers are to the *NCUA v. Morgan Stanley & Co., Inc.* No. 13-cv-6705 action.

² Further, the JPML has denied Defendants' request to transfer these actions to the District of Kansas pursuant to 28 U.S.C. § 1407.

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